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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
CARLOS L. RAINY,)
)
Defendant.)

Case No. A05-008 (JWS)

**UNOPPOSED MOTION ON SHORTENED TIME TO EXPAND TIME FOR
FILING OBJECTIONS TO PRE-SENTENCE REPORT, FOR SUBMISSION
OF FINAL PRE-SENTENCE REPORT AND TO CONTINUE SENTENCING**

COMES NOW the Defendant, CARLOS LIKEY RAINY, through counsel, WILLIAM B. CAREY, and moves the Court to extend the time for filing objections to pre-sentence report and the submission of final pre-sentence report. The defendant also moves for a brief continuance of his sentencing, presently scheduled for September 18, 2006 at 8:30 a.m.

The basis of this motion is that, due to the complexity of the case and the limited time available for review of the draft pre-sentence report and the preparation of objections, counsel for Mr. RAINY needs until the close of business on Wednesday, September 6, to file objections to the draft pre-sentence report in this matter. In order to accommodate United States Probation Officer Pamela Shaw, the

author of the pre-sentence report, additional time is therefore also requested for her to submit her final pre-sentence report.

The facts supporting this request are as follows. CARLOS RAINNEY is charged as Defendant No. 1 in an expansive drug conspiracy case. He faces a minimum of 10 years, with the possibility of a life sentence according to the calculations of the United States Probation Officer in her pre-sentence report.

The draft pre-sentence report in this matter was received by counsel for the defendant by fax at his office after business hours on Friday, August 18, 2006. The report is fifty-five pages long, including the detailed attachment setting out the Offense Conduct. Counsel for the defendant did not have a chance to review this lengthy document until Monday, August 21. The Court should note that under Federal Rule of Criminal Procedure 32(e)(2) a minimum notice of 35 days between receipt of the pre-sentence report by Defense Counsel and sentencing is required. In this case, the draft was effectively received twenty-eight days prior to sentencing.

At the time of the receipt of the draft pre-sentence report, Mr. RAINNEY was housed at the Federal Detention Center at SeaTac, with an unknown date of arrival in Anchorage to testify (under subpoena) at the trial of his wife, Shannon Rainey, in this same matter. Ms. Rainey's trial was set to begin on Monday, August 28. Counsel for Mr. RAINNEY was notified by his client that he had been moved to Anchorage on Friday, August 25. The pre-sentence materials that had been sent to Mr. RAINNEY at SeaTac were returned to counsel's office a few days later.

Counsel for Mr. RAINNEY was required to be in Petersburg and Juneau for numerous scheduled State Court matters during the week of August 28. Counsel had

to depart Anchorage on August 27 and only had a very limited amount of time to discuss the contents of the pre-sentence report with Mr. RAINETY prior to having to leave for Southeast Alaska.

Counsel for Mr. RAINETY returned to Anchorage from Juneau late on the evening of Thursday, August 31. The undersigned contacted Ms. Shaw regarding obtaining additional time, until at least September 5, to file objections to the pre-sentence report. Ms. Shaw had reservations, given that her final pre-sentence report was due on September 5. The undersigned informed Ms. Shaw that he would do what he could and try to get objections in early on September 5.

There has been insufficient time over the holiday weekend to sufficiently meet with Mr. RAINETY and prepare objections to the report. At least one additional day, until the close of business on September 6, is necessary to adequately represent Mr. Rainey and prepare these very important objections to the draft PSR. The defendant therefore requests that Ms. Shaw also be given whatever time she needs to submit a final pre-sentence report in light of the defendant's anticipated objections.

For the foregoing reasons, Defendant also requests a short continuance regarding his sentencing date. Another time later in the week of September 18 would be acceptable; otherwise, the defendant requests a date after September 27 due to the fact that counsel will again be required to be in Southeast Alaska between September 24 and 26.

Assistant U.S. Attorney Stephan Collins does not oppose this request and requests that no proceedings be set during the week of September 25.

There has been inadequate time, given the circumstances as set out above, for

the adequate preparation of objections to the lengthy pre-sentence report in this very serious and complicated case. The draft pre-sentence report was received seven days later than is required by rule and the travel schedules of both the defendant and counsel have not allowed for sufficient time to discuss the issues involved and prepare appropriate objections. This is not the kind of case where shortening the amount of time for preparation for sentencing is appropriate. For the foregoing reasons, the defendant request additional time for the preparation of objections, and the final pre-sentence report. A short continuance of the sentencing in this matter may also therefore be appropriate.

A period of delay under 18 U.S.C. § 31610(g) and (h) may occur as a result of the granting of this motion.

This motion is supported by the attached affidavit of WILLIAM B. CAREY.

DATED in Anchorage, Alaska this _____ day of September, 2006.

WILLIAM B. CAREY
Attorney for the Defendant
CARLOS L. RAINES

/s/ William B. Carey

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CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of September, 2006, a copy of the forgoing Unopposed Motion on Shortened Time to Expand Time for Filing Objections to Pre-Sentence Report, For Submission of Final Pre-Sentence Report and to Continue Sentencing was electronically served on the following:

Stephan Collins
Federal Public Defender
Pamela Shaw, Federal Probation Officer
D. Scott Dattan
John C. Pharr
Scott Sterling
Lance Wells
Burke Wonnell
Mark Rosenbaum
Raul Martinez
Hugh Fleischer